

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
GAINESVILLE DIVISION

JAMES FINCH and JUSTIN FINCH,)
et al.,)

Plaintiffs,)

vs.)

DONALD SHANE BROWN, et al.,)

Defendants.)

CIVIL ACTION FILE NO.
2:10-CV-0062-WCO

**PLAINTIFFS' MOTION FOR ORAL HEARING
UPON CROSS-MOTIONS FOR SUMMARY JUDGMENT**

NOW COME the Plaintiffs and Move the Court to schedule an oral hearing upon the cross-motions for Summary Judgment which are currently pending before the Court, showing in support hereof the following:

1. Three Motions for Summary Judgment are pending before this Court: a) Plaintiffs' Motion for Partial Summary Judgment against Defendant Brown, D.E. 103; b) Defendant Stanley's Motion for Summary Judgment, D.E. 119; and, c) Defendant Gailey's Motion for Summary Judgment, D.E. 117.

2. The briefing on all three of the motions will be completed, and the matters presented will be ready to be adjudicated by the Court within the next two weeks.

3. Oral hearing will be of assistance to the Court in at least the following areas:
- a. identification of actually disputed facts;
 - b. identification of facts which are genuinely not in dispute;
 - c. assessment of each individual Defendant's requisite knowledge concerning the threat of suicide posed by Mr. Finch prior to his death and the respective Defendant's actual response to that threat;
 - d. assessment of the character of the conduct which each Defendant was called upon to perform insofar as such conduct was either a ministerial duty or discretionary for purposes of the State law based claims of negligence against the respective Defendants.

For and upon the foregoing the Plaintiffs pray that this Court permit and schedule an oral hearing upon the pending motions.

Respectfully submitted,

S/ Brian Spears, Esq.
Brian Spears, Bar No. 670112
Attorney for Plaintiffs James N. Finch
and The Estate of Ricky Finch and
Plaintiff Jason O. Finch

1126 Ponce de Leon Avenue
Atlanta, GA 30306
404-872-7086

S/ Albert Wan, Esq.
Albert Wan, Bar No. 334224
Attorney for Plaintiffs James N. Finch
and The Estate of Ricky Finch and
Plaintiff Jason O. Finch

1201 Peachtree Street
400 Colony Square, Suite 200
Atlanta, GA 30361
404-872-7760

1

S/ GARY SHAPIRO
Gary Shapiro, Bar No. 637794
Attorney for Plaintiff Justin Finch

400 Galleria Parkway
Suite 1500-20
Atlanta, GA 30339
770-431-1500

CERTIFICATE OF SERVICE

I hereby certify that on August 8, 2011, I electronically filed the attached with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing to the following attorneys of record:

Andrew H. Marshall, Esq.
Begnaud & Marshall, LLP
1091-B Founders Boulevard
Post Office Box 8085
Athens, Georgia 30603-8085

G. Kevin Morris
Williams, Morris & Waymire, LLC
Building 400, Suite A
4330 South Lee Street, NE
Buford, Georgia 30518

Timothy J. Buckley
Michaela Kendall
Buckley & Brown, PC
2970 Clairmont Road, Suite 1010
Atlanta, GA 30329

Albert Wan, Esq.
1201 Peachtree St., Ste. 200
Atlanta, GA 30361

Gary M. Shapiro, Esq.
400 Galleria Parkway, Suite 1500-20
Atlanta, GA 30339

S/BRIAN SPEARS, ECF-Registered Attorney
Georgia Bar No. 670112
Attorney for Plaintiffs
1126 Ponce de Leon Avenue
Atlanta, GA 30306
Telephone: (404) 872-7086
Email: Bspears@mindspring.com